

109TH CONGRESS
1ST SESSION

S. _____

To provide tax incentives to promote the conservation and production of
natural gas.

IN THE SENATE OF THE UNITED STATES

Mr. ALEXANDER (for himself, Mr. JOHNSON, _____) introduced the
following bill; which was read twice and referred to the Committee on

A BILL

To provide tax incentives to promote the conservation and
production of natural gas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Incentives for the
5 Natural Gas Price Reduction Act of 2005”.

6 **SEC. 2. ENCOURAGING COGENERATION DEVELOPMENT.**

7 (a) COMBINED HEAT AND POWER SYSTEM.—Section
8 48(a) of the Internal Revenue Code of 1986 is amended—

9 (1) in paragraph (3)(A)—

1 (A) in clause (i), by striking “or” at the
2 end;

3 (B) in clause (ii) by striking the comma at
4 the end and inserting “, or”; and

5 (C) by inserting after clause (ii) the fol-
6 lowing:

7 “(iii) combined heat and power system
8 property,”.

9 (2) by redesignating paragraph (4) as para-
10 graph (5); and

11 (3) by inserting after paragraph (3) the fol-
12 lowing new paragraph:

13 “(4) COMBINED HEAT AND POWER SYSTEM
14 PROPERTY.—For purposes of this subsection—

15 “(A) COMBINED HEAT AND POWER SYS-
16 TEM PROPERTY.—

17 “(i) IN GENERAL.—The term ‘com-
18 bined heat and power system property’
19 means property comprising a system—

20 “(I) which uses the same energy
21 source for the simultaneous or sequen-
22 tial generation of electrical power, me-
23 chanical shaft power, or both, in com-
24 bination with the generation of steam
25 or other forms of useful thermal en-

1 ergy (including heating and cooling
2 applications),

3 “(II) which has an electrical ca-
4 pacity of no more than 50,000 kilo-
5 watts or a mechanical energy capacity
6 of more than 67,051 horsepower or an
7 equivalent combination of electrical
8 and mechanical energy capacities,

9 “(III) which produces at least 20
10 percent of its total useful energy in
11 the form of thermal energy, and at
12 least 15 percent of its total useful en-
13 ergy in the form of electrical or me-
14 chanical power (or combination there-
15 of),

16 “(IV) the energy efficiency per-
17 centage of which exceeds 60 percent,
18 and

19 “(V) which is placed in service
20 after December 31, 2005, and before
21 January 1, 2010.

22 “(ii) EXCLUSION.—The term ‘com-
23 bined heat and power system property’
24 does not include property used to transport

1 the energy source to the facility or to dis-
2 tribute energy produced by the facility.

3 “(B) SPECIAL RULES.—

4 “(i) NONAPPLICATION OF CERTAIN
5 RULES.—For purposes of determining if
6 the term ‘combined heat and power system
7 property’ includes technologies which gen-
8 erate electricity or mechanical power using
9 back-pressure steam turbines in place of
10 existing pressure-reducing valves or which
11 make use of waste heat from industrial
12 processes such as by using organic rankin,
13 stirling, or kalina heat engine systems,
14 subparagraph (A)(i) shall be applied with-
15 out regard to subclauses (III) and (IV).

16 “(ii) ENERGY EFFICIENCY PERCENT-
17 AGE.—For purposes of subparagraph
18 (A)(i)(IV), the energy efficiency percentage
19 of a system is the fraction—

20 “(I) the numerator of which is
21 the total useful electrical, thermal,
22 and mechanical power produced by
23 the system at normal operating rates,
24 and expected to be consumed in its
25 normal application, and

1 “(II) the denominator of which is
2 the higher heating value of the pri-
3 mary fuel source for the system.

4 “(iii) DETERMINATIONS MADE ON
5 BTU BASIS.—The energy efficiency per-
6 centage and the percentages under sub-
7 paragraph (A)(i)(III) shall be determined
8 on a Btu basis.

9 “(iv) EXCEPTION.—The matter in
10 paragraph (3) which follows subparagraph
11 (D) shall not apply to combined heat and
12 power system property.

13 “(C) SYSTEMS USING BAGASSE OR OTHER
14 BIOMASS.—If a system is designed to use ba-
15 gasse or other biomass (including wood chips,
16 wood waste, and bark) for at least 90 percent
17 of the energy source—

18 “(i) subparagraph (A)(i)(IV) shall not
19 apply, and

20 “(ii) the amount of credit determined
21 under subsection (a) with respect to such
22 system shall not exceed the amount which
23 bears the same ratio to such amount of
24 credit (determined without regard to this
25 subparagraph) as the energy efficiency per-

1 centage of such system bears to 60 per-
2 cent.”.

3 (b) CONFORMING AMENDMENTS.—Section
4 29(b)(3)(A)(i)(III) of such Code is amended by striking
5 “section 48(a)(4)(C)” and inserting “section
6 48(a)(5)(C)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to periods after December 31,
9 2005, in taxable years ending after such date, under rules
10 similar to the rules of section 48(m) of the Internal Rev-
11 enue Code of 1986 (as in effect on the day before the date
12 of the enactment of the Revenue Reconciliation Act of
13 1990).

14 **SEC. 3. SOLAR ENERGY INCENTIVES.**

15 (a) BUSINESS CONSUMER CREDIT.—

16 (1) ENERGY PERCENTAGE.—Section 48(a)(2)
17 of the Internal Revenue Code of 1986 (relating to
18 energy percentage) is amended by striking subpara-
19 graph (A) and inserting the following:

20 “(A) IN GENERAL.—The energy percent-
21 age is—

22 “(i) for geothermal property, 10 per-
23 cent, and

24 “(ii) for solar equipment—

1 “(I) 30 percent during taxable
2 years ending after December 31,
3 2005, and before January 1, 2011,
4 and

5 “(II) 10 percent during taxable
6 years ending after December 31,
7 2010.

8 (2) ENERGY PROPERTY.—Section 48(a)(3)(A)
9 of such Code (defining energy property) is amended
10 by striking clause (i) and inserting the following:

11 “(i) equipment which uses solar en-
12 ergy to generate electricity for use in a
13 structure, to heat or cool (or provide hot
14 water for use in) a structure, to illuminate
15 the inside of a structure using fiber-optic
16 distributed sunlight or to provide solar
17 process heat, excepting property used to
18 generate energy for the purposes of heat-
19 ing a swimming pool,”.

20 (b) RESIDENTIAL CONSUMER CREDIT.—Subpart A
21 of part IV of subchapter A of chapter 1 of the Internal
22 Revenue Code of 1986 is amended by inserting after sec-
23 tion 25B the following:

1 **“SEC. 25C. RENEWABLE ENERGY EQUIPMENT CREDITS.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed as a credit against the tax
4 imposed by this chapter for the taxable year, in the case
5 of qualified photovoltaic property expenditures or qualified
6 solar heating property expenditures made by the taxpayer
7 during such year, an amount equal to 30 percent of so
8 much of such expenditures as do not exceed \$7,500.

9 “(b) DEFINITIONS.—For purposes of this section:

10 “(1) PROPERTY EXPENDITURE.—

11 “(A) IN GENERAL.—The term ‘property
12 expenditure’ means any expenditure for a prop-
13 erty.

14 “(B) INCLUSIONS.—

15 “(i) LABOR COSTS.—The term ‘prop-
16 erty expenditure’ includes the cost of any
17 labor that is properly allocable to the on-
18 site preparation, assembly, or original in-
19 stallation of the property described in
20 paragraph (2) or (3), including the cost of
21 piping or wiring to interconnect such prop-
22 erty to the dwelling unit.

23 “(ii) SOLAR PANELS.—No expenditure
24 relating to a solar panel or other property
25 installed as a roof (or portion thereof)
26 shall fail to be treated as a property ex-

1 penditure solely because it constitutes a
2 structural component of the structure on
3 which it is installed.

4 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
5 PENDITURE.—The term ‘qualified photovoltaic prop-
6 erty expenditure’ means any property expenditure
7 for property which uses solar energy to generate
8 electricity for use in a dwelling unit through the
9 photovoltaic effect.

10 “(3) QUALIFIED SOLAR HEATING PROPERTY
11 EXPENDITURE.—

12 “(A) IN GENERAL.—The term ‘qualified
13 solar heating property expenditure’ means any
14 property expenditure for property which uses
15 solar energy to heat or cool (or provide hot
16 water for use in) a dwelling unit.

17 “(B) EXCLUSION.—The term ‘qualified
18 solar heating property expenditure’ does not in-
19 clude an expenditure for property which uses
20 solar energy to heat or cool a swimming pool.

21 “(c) SPECIAL RULES.—

22 “(1) JOINT OCCUPANCY.—In the case of any
23 dwelling unit which is jointly occupied and used dur-
24 ing any calendar year as a residence by 2 or more
25 individuals the following shall apply separately with

1 respect to qualified solar heating property expendi-
2 tures and qualified photovoltaic property expendi-
3 tures:

4 “(A) The amount of the credit allowable
5 under subsection (a) by reason of expenditures
6 made during such calendar year by any of such
7 individuals with respect to such dwelling unit
8 shall be determined by treating all of such indi-
9 viduals as 1 taxpayer whose taxable year is
10 such calendar year.

11 “(B) There shall be allowable with respect
12 to such expenditures to each of such individ-
13 uals, a credit under subsection (a) for the tax-
14 able year in which such calendar year ends in
15 an amount which bears the same ratio to the
16 amount determined under subparagraph (A) as
17 the amount of such expenditures made by such
18 individual during such calendar year bears to
19 the aggregate of such expenditures made by all
20 of such individuals during such calendar year.

21 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
22 HOUSING CORPORATION.—In the case of an indi-
23 vidual who is a tenant-stockholder (as defined in sec-
24 tion 216) in a cooperative housing corporation (as
25 defined in that section), the individual shall be treat-

1 ed as having made such individual's tenant-stock-
2 holder's proportionate share (as defined in section
3 216(b)(3)) of any expenditures of such corporation.

4 “(3) CONDOMINIUMS.—

5 “(A) IN GENERAL.—In the case of an indi-
6 vidual who is a member of a condominium man-
7 agement association with respect to a condo-
8 minium which such individual owns, such indi-
9 vidual shall be treated as having made such in-
10 dividual's proportionate share of any expendi-
11 tures of such association.

12 “(B) MANAGEMENT ASSOCIATION.—For
13 purposes of this paragraph, the term ‘condo-
14 minium management association’ means an or-
15 ganization which meets the requirements of
16 paragraph (1) of section 528(c) (other than
17 subparagraph (E) thereof) with respect to a
18 condominium project substantially all of the
19 units of which are used as residences.

20 “(4) AMOUNT OF EXPENDITURE.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), an expenditure with respect
23 to an item shall be treated as made when the
24 original installation of the item is completed.

1 “(B) EXPENDITURES IN CONNECTION
2 WITH BUILDING CONSTRUCTION.—In the case
3 of an expenditure in connection with the con-
4 struction or reconstruction of a structure, such
5 expenditure shall be treated as made when the
6 original use of the constructed or reconstructed
7 structure by the taxpayer begins.

8 “(C) AMOUNT.—

9 “(i) IN GENERAL.—The amount of
10 any expenditure shall be the cost of the ex-
11 penditure.

12 “(ii) SUBSIDIZED ENERGY FINANC-
13 ING.—For purposes of determining the
14 amount of expenditures, there shall not be
15 taken into account expenditures which are
16 made from subsidized energy financing (as
17 defined in section 48(a)(4)(A)).

18 “(d) BASIS ADJUSTMENTS.—For purposes of this
19 subtitle, if a credit is allowed under this section for any
20 expenditure with respect to any property, the increase in
21 the basis of such property which would (but for this sub-
22 section) result from such expenditure shall be reduced by
23 the amount of the credit so allowed.

24 “(e) LIMITATIONS.—No credit shall be allowed under
25 this section for an item of property unless—

1 “(1) in the case of solar heating property, the
2 property meets all applicable health and safety
3 standards and requirements imposed by any State or
4 local permitting authority, and

5 “(2) in the case of a photovoltaic property, the
6 property meets all appropriate fire and electric code
7 requirements.

8 “(f) TERMINATION.—This section shall not apply to
9 expenditures made after December 31, 2010.”.

10 (c) PRODUCTION TAX CREDIT FOR UTILITY—SCALE
11 SOLAR.—Paragraph (4) of section 45(d) of the Internal
12 Revenue Code of 1986 (relating to qualified facilities) is
13 amended to read as follows:

14 “(4) GEOTHERMAL OR SOLAR ENERGY FACIL-
15 ITY.—In the case of a facility using geothermal or
16 solar energy to produce electricity, the term ‘quali-
17 fied facility’ means any facility owned by the tax-
18 payer which is originally placed in service after De-
19 cember 31, 2005, and before December 31, 2010.”.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Subsection (a) of section 1016 of the Inter-
22 nal Revenue Code of 1986 is amended—

23 (A) by striking “and” at the end of para-
24 graph (30);

1 (B) by striking the period at the end of
2 paragraph (31) and inserting “, and”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(32) to the extent provided in section
6 25C(b)(5), in the case of amounts with respect to
7 which a credit has been allowed under section 25C.”.

8 (2) The table of sections for subpart A of part
9 IV of subchapter A of chapter 1 of such Code is
10 amended by inserting after the item relating to sec-
11 tion 25B the following new item:

“Sec. 25C. Renewable energy equipment credits.”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to property placed in service after
14 December 31, 2005, in taxable years ending after such
15 date.

16 **SEC. 4. ENERGY EFFICIENCY TAX PROVISIONS.**

17 (a) CREDIT FOR RESIDENTIAL ENERGY EFFICIENT
18 PROPERTY.—

19 (1) IN GENERAL.—Subpart A of part IV of
20 subchapter A of chapter 1 of the Internal Revenue
21 Code of 1986 (relating to nonrefundable personal
22 credits) is amended by inserting after section 25B
23 the following:

1 **“SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed as a credit against the tax
4 imposed by this chapter for the taxable year an amount
5 equal to the sum of—

6 “(1) 15 percent of the qualified solar water
7 heating property expenditures made by the taxpayer
8 during such year,

9 “(2) 15 percent of the qualified photovoltaic
10 property expenditures made by the taxpayer during
11 such year,

12 “(3) 15 percent of the qualified wind energy
13 property expenditures made by the taxpayer during
14 such year, and

15 “(4) 20 percent of the qualified fuel cell prop-
16 erty expenditures made by the taxpayer during such
17 year.

18 “(b) LIMITATIONS.—

19 “(1) MAXIMUM CREDIT.—

20 “(A) IN GENERAL.—The credit allowed
21 under subsection (a) shall not exceed—

22 “(i) \$2,000 for property described in
23 paragraph (1), (2), or (3) of subsection
24 (c), and

1 “(ii) \$500 for each 0.5 kilowatt of ca-
2 pacity of property described in subsection
3 (c)(4).

4 “(B) PRIOR EXPENDITURES BY TAXPAYER
5 ON SAME RESIDENCE TAKEN INTO ACCOUNT.—
6 In determining the amount of the credit allowed
7 to a taxpayer with respect to any dwelling unit
8 under this section, the dollar amount under
9 subparagraph (A)(i) with respect to each type
10 of property described in such subparagraph
11 shall be reduced by the credit allowed to the
12 taxpayer under this section with respect to such
13 property for all preceding taxable years with re-
14 spect to such dwelling unit.

15 “(2) PROPERTY STANDARDS.—No credit shall
16 be allowed under this section for an item of property
17 unless—

18 “(A) the original use of such property com-
19 mences with the taxpayer,

20 “(B) such property reasonably can be ex-
21 pected to remain in use for at least 5 years,

22 “(C) such property is installed on or in
23 connection with a dwelling unit located in the
24 United States and used as a residence by the
25 taxpayer,

1 “(D) in the case of solar water heating
2 property, such property is certified for perform-
3 ance by the non-profit Solar Rating and Certifi-
4 cation Corporation or a comparable entity en-
5 dorsed by the government of the State in which
6 such property is installed,

7 “(E) in the case of fuel cell property, such
8 property meets the performance and quality
9 standards (if any) which have been prescribed
10 by the Secretary by regulations (after consulta-
11 tion with the Secretary of Energy), and

12 “(F) in the case of any photovoltaic prop-
13 erty, fuel cell property, or wind energy property,
14 such property meets appropriate fire and elec-
15 tric code requirements.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) QUALIFIED SOLAR WATER HEATING PROP-
18 ERTY EXPENDITURE.—The term ‘qualified solar
19 water heating property expenditure’ means an ex-
20 penditure for property which uses solar energy to
21 heat water for use in a dwelling unit.

22 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
23 PENDITURE.—The term ‘qualified photovoltaic prop-
24 erty expenditure’ means an expenditure for property
25 which uses solar energy to generate electricity for

1 use in a dwelling unit and which is not described in
2 paragraph (1).

3 “(3) QUALIFIED WIND ENERGY PROPERTY EX-
4 PENDITURE.—The term ‘qualified wind energy prop-
5 erty expenditure’ means an expenditure for property
6 which uses wind energy to generate electricity for
7 use in a dwelling unit.

8 “(4) QUALIFIED FUEL CELL PROPERTY EX-
9 PENDITURE.—The term ‘qualified fuel cell property
10 expenditure’ means an expenditure for any qualified
11 fuel cell property (as defined in section 48(c)(1)).

12 “(d) SPECIAL RULES.—For purposes of this
13 section—

14 “(1) SOLAR PANELS.—No expenditure relating
15 to a solar panel or other property installed as a roof
16 (or portion thereof) shall fail to be treated as prop-
17 erty described in paragraph (1) or (2) of subsection
18 (c) solely because it constitutes a structural compo-
19 nent of the structure on which it is installed.

20 “(2) SWIMMING POOLS, ETC., USED AS STOR-
21 AGE MEDIUM.—Expenditures which are properly al-
22 locable to a swimming pool, hot tub, or any other
23 energy storage medium which has a function other
24 than the function of such storage shall not be taken
25 into account for purposes of this section.

1 “(3) DOLLAR AMOUNTS IN CASE OF JOINT OC-
2 CUPANCY.—In the case of any dwelling unit which is
3 jointly occupied and used during any calendar year
4 as a residence by 2 or more individuals, the fol-
5 lowing rules shall apply:

6 “(A) The amount of the credit allowable
7 under subsection (a) by reason of expenditures
8 made during such calendar year by any of such
9 individuals with respect to such dwelling unit
10 shall be determined by treating all of such indi-
11 viduals as 1 taxpayer whose taxable year is
12 such calendar year.

13 “(B) There shall be allowable, with respect
14 to such expenditures to each of such individ-
15 uals, a credit under subsection (a) for the tax-
16 able year in which such calendar year ends in
17 an amount which bears the same ratio to the
18 amount determined under subparagraph (A) as
19 the amount of such expenditures made by such
20 individual during such calendar year bears to
21 the aggregate of such expenditures made by all
22 of such individuals during such calendar year.

23 “(C) Subparagraphs (A) and (B) shall be
24 applied separately with respect to expenditures

1 described in paragraphs (1), (2), (3), and (4) of
2 subsection (c).

3 “(4) TENANT-STOCKHOLDER IN COOPERATIVE
4 HOUSING CORPORATION.—In the case of an indi-
5 vidual who is a tenant-stockholder (as defined in sec-
6 tion 216) in a cooperative housing corporation (as
7 defined in such section), such individual shall be
8 treated as having made the individual’s tenant-stock-
9 holder’s proportionate share (as defined in section
10 216(b)(3)) of any expenditures of such corporation.

11 “(5) CONDOMINIUMS.—

12 “(A) IN GENERAL.—In the case of an indi-
13 vidual who is a member of a condominium man-
14 agement association with respect to a condo-
15 minium which the individual owns, such indi-
16 vidual shall be treated as having made the indi-
17 vidual’s proportionate share of any expenditures
18 of such association.

19 “(B) CONDOMINIUM MANAGEMENT ASSO-
20 CIATION.—For purposes of this paragraph, the
21 term ‘condominium management association’
22 means an organization which meets the require-
23 ments of paragraph (1) of section 528(c) (other
24 than subparagraph (E) thereof) with respect to

1 a condominium project substantially all of the
2 units of which are used as residences.

3 “(6) ALLOCATION IN CERTAIN CASES.—Except
4 in the case of qualified wind energy property expend-
5 itures, if less than 80 percent of the use of an item
6 is for nonbusiness purposes, only that portion of the
7 expenditures for such item which is properly allo-
8 cable to use for nonbusiness purposes shall be taken
9 into account.

10 “(7) WHEN EXPENDITURE MADE; AMOUNT OF
11 EXPENDITURE.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), an expenditure with respect
14 to an item shall be treated as made when the
15 original installation of the item is completed.

16 “(B) EXPENDITURES PART OF BUILDING
17 CONSTRUCTION.—In the case of an expenditure
18 in connection with the construction or recon-
19 struction of a structure, such expenditure shall
20 be treated as made when the original use of the
21 constructed or reconstructed structure by the
22 taxpayer begins.

23 “(C) AMOUNT.—The amount of any ex-
24 penditure shall be the cost thereof.

1 “(8) PROPERTY FINANCED BY SUBSIDIZED EN-
2 ERGY FINANCING.—For purposes of determining the
3 amount of expenditures made by any individual with
4 respect to any dwelling unit, there shall not be taken
5 into account expenditures which are made from sub-
6 sidized energy financing (as defined in section
7 48(a)(4)(C)).

8 “(9) DENIAL OF DEPRECIATION ON WIND EN-
9 ERGY PROPERTY FOR WHICH CREDIT ALLOWED.—
10 No deduction shall be allowed under section 167 for
11 property which uses wind energy to generate elec-
12 tricity if the taxpayer is allowed a credit under this
13 section with respect to such property.

14 “(e) BASIS ADJUSTMENTS.—For purposes of this
15 subtitle, if a credit is allowed under this section for any
16 expenditure with respect to any property, the increase in
17 the basis of such property which would (but for this sub-
18 section) result from such expenditure shall be reduced by
19 the amount of the credit so allowed.

20 “(f) TERMINATION.—The credit allowed under this
21 section shall not apply to taxable years beginning after
22 December 31, 2006 (December 31, 2008, with respect to
23 qualified photovoltaic property expenditures).”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Section 1016(a) of the Internal Rev-
2 enue Code of 1986 is amended—

3 (i) by striking “and” at the end of
4 paragraph (30);

5 (ii) by striking the period at the end
6 of paragraph (31) and inserting “, and”;
7 and

8 (iii) by adding at the end the fol-
9 lowing:

10 “(32) to the extent provided in section 25C(e),
11 in the case of amounts with respect to which a credit
12 has been allowed under section 25C.”.

13 (B) The table of sections for subpart A of
14 part IV of subchapter A of chapter 1 of such
15 Code is amended by inserting after the item re-
16 lating to section 25B the following:

“Sec. 25C. Residential energy efficient property.”.

17 (3) EFFECTIVE DATE.—The amendments made
18 by this section shall apply to taxable years ending
19 after December 31, 2005.

20 (b) EXTENSION OF CREDIT FOR ELECTRICITY PRO-
21 DUCED FROM CERTAIN RENEWABLE RESOURCES.—

22 (1) EXTENSION.—Section 45(d) of the Internal
23 Revenue Code of 1986 (relating to qualified facili-
24 ties) is amended by striking “2006” each place it
25 appears and inserting “2007”.

1 (2) COORDINATION WITH OTHER CREDITS.—
2 Paragraph (9) of section 45(e) of the Internal Rev-
3 enue Code of 1986 (relating to definitions and spe-
4 cial rules) is amended to read as follows:

5 “(9) COORDINATION WITH OTHER CREDITS.—
6 The term ‘qualified facility’ shall not include—

7 “(A) any property with respect to which a
8 credit is allowed under section 25C, and

9 “(B) any facility the production from
10 which is allowed as a credit under section 29,
11 for the taxable year or any prior taxable year.”.

12 (3) EFFECTIVE DATE.—The amendments made
13 by this section shall apply to electricity produced
14 and sold after the date of the enactment of this Act,
15 in taxable years ending after that date.

16 (4) GAO STUDY AND REPORT.—

17 (A) IN GENERAL.—The Comptroller Gen-
18 eral of the United States shall conduct a study
19 on the market viability of producing electricity
20 from resources with respect to which credit is
21 allowed under section 45 of the Internal Rev-
22 enue Code of 1986.

23 (B) OPEN-LOOP BIOMASS AND MUNICIPAL
24 SOLID WASTE.—In the case of open-loop bio-
25 mass and municipal solid waste resources, the

1 study under paragraph (1) shall take into ac-
2 count savings associated with not having to dis-
3 pose of those resources.

4 (C) ENVIRONMENTAL IMPACT.—In con-
5 ducting the study under paragraph (1), the
6 Comptroller General of the United States shall
7 estimate the dollar value of the environmental
8 impact of producing electricity from open-loop
9 biomass and municipal solid waste relative to
10 producing electricity from fossil fuels using the
11 latest generation of technology.

12 (D) REPORT.—Not later than June 30,
13 2006, the Comptroller General of the United
14 States shall submit to the Committee on Ways
15 and Means of the House of Representatives and
16 the Committee on Finance of the Senate a re-
17 port describing the results of the study under
18 paragraph (1).

19 (c) CREDIT FOR BUSINESS INSTALLATION OF QUALI-
20 FIED FUEL CELLS.—

21 (1) IN GENERAL.—Section 48 of the Internal
22 Revenue Code of 1986 (relating to energy credit) is
23 amended—

24 (A) in subsection (a)—

1 (i) in paragraph (1), by inserting “ex-
2 cept as provided in subsection (c)(2),” be-
3 fore “the energy”;

4 (ii) in paragraph (2), by striking sub-
5 paragraph (A) and inserting the following:

6 “(A) IN GENERAL.—The energy percent-
7 age is—

8 “(i) in the case of qualified fuel cell
9 property, 20 percent, and

10 “(ii) in the case of any other energy
11 property, 10 percent.”;

12 (iii) in paragraph (3)(A)—

13 (I) in clause (i), by striking “or”
14 at the end;

15 (II) in clause (ii), by adding “or”
16 after the comma at the end; and

17 (III) by inserting at the end the
18 following:

19 “(iii) qualified fuel cell property,”;

20 and

21 (B) by adding at the end the following:

22 “(c) QUALIFIED FUEL CELL PROPERTY.—For pur-
23 poses of subsection (a)(3)(A)(iii)—

24 “(1) IN GENERAL.—The term ‘qualified fuel
25 cell property’ means a fuel cell power plant which

1 generates at least 0.5 kilowatt of electricity using an
2 electrochemical process.

3 “(2) LIMITATION.—The energy credit with re-
4 spect to any qualified fuel cell property shall not ex-
5 ceed an amount equal to \$500 for each 0.5 kilowatt
6 of capacity of such property.

7 “(3) FUEL CELL POWER PLANT.—The term
8 ‘fuel cell power plant’ means an integrated system,
9 comprised of a fuel cell stack assembly and associ-
10 ated balance of plant components, which converts a
11 fuel into electricity using electrochemical means.

12 “(4) TERMINATION.—The term ‘qualified fuel
13 cell property’ shall not include any property placed
14 in service after December 31, 2006.”.

15 (2) EFFECTIVE DATE.—The amendments made
16 by this section shall apply to periods after December
17 31, 2005, under rules similar to the rules of section
18 48(m) of the Internal Revenue Code of 1986 (as in
19 effect on the day before the date of the enactment
20 of the Revenue Reconciliation Act of 1990).

21 (d) CREDIT FOR ENERGY EFFICIENCY IMPROVE-
22 MENTS TO EXISTING HOMES.—

23 (1) IN GENERAL.—Subpart A of part IV of
24 subchapter A of chapter 1 of the Internal Revenue
25 Code of 1986 (relating to nonrefundable personal

1 credits) (as amended by this Act) is amended by in-
2 serting after section 25C the following:

3 **“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
4 **ING HOMES.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
6 dividual, there shall be allowed as a credit against the tax
7 imposed by this chapter for the taxable year an amount
8 equal to 20 percent of the amount paid or incurred by
9 the taxpayer for qualified energy efficiency improvements
10 installed during such taxable year.

11 “(b) LIMITATIONS.—

12 “(1) MAXIMUM CREDIT.—The credit allowed by
13 this section with respect to a dwelling unit shall not
14 exceed \$2,000.

15 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
16 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
17 credit was allowed to the taxpayer under subsection
18 (a) with respect to a dwelling unit in 1 or more prior
19 taxable years, the amount of the credit otherwise al-
20 lowable for the taxable year with respect to that
21 dwelling unit shall be reduced by the sum of the
22 credits allowed under subsection (a) to the taxpayer
23 with respect to the dwelling unit for all prior taxable
24 years.

1 “(c) QUALIFIED ENERGY EFFICIENCY IMPROVE-
2 MENTS.—For purposes of this section, the term ‘qualified
3 energy efficiency improvements’ means any energy effi-
4 cient building envelope component which meets the pre-
5 scriptive criteria for such component established by the
6 2000 International Energy Conservation Code, as such
7 Code (including supplements) is in effect on the date of
8 the enactment of this section (or, in the case of a metal
9 roof with appropriate pigmented coatings which meet the
10 Energy Star program requirements), if—

11 “(1) such component is installed in or on a
12 dwelling unit—

13 “(A) located in the United States,

14 “(B) owned and used by the taxpayer as
15 the taxpayer’s principal residence (within the
16 meaning of section 121), and

17 “(C) which has not been treated as a
18 qualified new energy efficient home for pur-
19 poses of any credit allowed under section 45J,

20 “(2) the original use of such component com-
21 mences with the taxpayer, and

22 “(3) such component reasonably can be ex-
23 pected to remain in use for at least 5 years.

24 If the aggregate cost of such components with respect to
25 any dwelling unit exceeds \$1,000, such components shall

1 be treated as qualified energy efficiency improvements
2 only if such components are also certified in accordance
3 with subsection (d) as meeting such prescriptive criteria.

4 “(d) CERTIFICATION.—The certification described in
5 subsection (c) shall be—

6 “(1) determined on the basis of the technical
7 specifications or applicable ratings (including prod-
8 uct labeling requirements) for the measurement of
9 energy efficiency (based upon energy use or building
10 envelope component performance) for the energy ef-
11 ficient building envelope component,

12 “(2) provided by a local building regulatory au-
13 thority, a utility, a manufactured home production
14 inspection primary inspection agency (IPLA), or an
15 accredited home energy rating system provider who
16 is accredited by or otherwise authorized to use ap-
17 proved energy performance measurement methods by
18 the Residential Energy Services Network
19 (RESNET), and

20 “(3) made in writing in a manner which speci-
21 fies in readily verifiable fashion the energy efficient
22 building envelope components installed and their re-
23 spective energy efficiency levels.

24 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
25 poses of this section—

1 “(1) BUILDING ENVELOPE COMPONENT.—The
2 term ‘building envelope component’ means—

3 “(A) any insulation material or system
4 which is specifically and primarily designed to
5 reduce the heat loss or gain of a dwelling unit
6 when installed in or on such dwelling unit,

7 “(B) exterior windows (including sky-
8 lights),

9 “(C) exterior doors, and

10 “(D) any metal roof installed on a dwelling
11 unit, but only if such roof has appropriate pig-
12 mented coatings which are specifically and pri-
13 marily designed to reduce the heat gain of such
14 dwelling unit.

15 “(2) MANUFACTURED HOMES INCLUDED.—The
16 term ‘dwelling unit’ includes a manufactured home
17 which conforms to Federal Manufactured Home
18 Construction and Safety Standards (section 3280 of
19 title 24, Code of Federal Regulations).

20 “(3) APPLICATION OF RULES.—Rules similar to
21 the rules under paragraphs (3), (4), and (5) of sec-
22 tion 25C(d) shall apply.

23 “(f) BASIS ADJUSTMENT.—For purposes of this sub-
24 title, if a credit is allowed under this section for any ex-
25 penditure with respect to any property, the increase in the

1 basis of such property which would (but for this sub-
2 section) result from such expenditure shall be reduced by
3 the amount of the credit so allowed.

4 “(g) APPLICATION OF SECTION.—This section shall
5 apply to qualified energy efficiency improvements installed
6 after December 31, 2005, and before January 1, 2007.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Subsection (a) of section 1016 of the
9 Internal Revenue Code of 1986 (as amended by
10 this Act) is amended—

11 (i) in paragraph (31), by striking
12 “and” at the end;

13 (ii) in paragraph (32), by striking the
14 period at the end and inserting “, and”;
15 and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(33) to the extent provided in section 25D(f),
19 in the case of amounts with respect to which a credit
20 has been allowed under section 25D.”.

21 (B) The table of sections for subpart A of
22 part IV of subchapter A of chapter 1 of such
23 Code (as amended by this Act) is amended by
24 inserting after the item relating to section 25C
25 the following:

“Sec. 25D. Energy efficiency improvements to existing homes.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this section shall apply to taxable years ending
3 after December 31, 2005.

4 (e) CREDIT FOR CONSTRUCTION OF NEW ENERGY
5 EFFICIENT HOMES.—

6 (1) IN GENERAL.—Subpart D of part IV of
7 subchapter A of chapter 1 of the Internal Revenue
8 Code of 1986 (relating to business related credits) is
9 amended by adding at the end the following:

10 **“SEC. 45J. NEW ENERGY EFFICIENT HOME CREDIT.**

11 “(a) IN GENERAL.—For purposes of section 38, in
12 the case of an eligible contractor with respect to a quali-
13 fied new energy efficient home, the credit determined
14 under this section for the taxable year with respect to such
15 home is an amount equal to the aggregate adjusted bases
16 of all energy efficient property installed in such home dur-
17 ing construction of such home.

18 “(b) LIMITATIONS.—

19 “(1) MAXIMUM CREDIT.—

20 “(A) IN GENERAL.—The credit allowed by
21 this section with respect to a dwelling unit shall
22 not exceed—

23 “(i) in the case of a dwelling unit de-
24 scribed in clause (i) or (iii) of subsection
25 (c)(3)(D), \$1,000, and

1 “(ii) in the case of a dwelling unit de-
2 scribed in subsection (c)(3)(D)(ii), \$2,000.

3 “(B) PRIOR CREDIT AMOUNTS ON SAME
4 DWELLING UNIT TAKEN INTO ACCOUNT.—If a
5 credit was allowed under subsection (a) with re-
6 spect to a dwelling unit in 1 or more prior tax-
7 able years, the amount of the credit otherwise
8 allowable for the taxable year with respect to
9 such dwelling unit shall be reduced by the sum
10 of the credits allowed under subsection (a) with
11 respect to the dwelling unit for all prior taxable
12 years.

13 “(2) COORDINATION WITH CERTAIN CREDITS.—
14 For purposes of this section—

15 “(A) the basis of any property referred to
16 in subsection (a) shall be reduced by that por-
17 tion of the basis of any property which is attrib-
18 utable to qualified rehabilitation expenditures
19 (as defined in section 47(c)(2)) or to the energy
20 percentage of energy property (as determined
21 under section 48(a)), and

22 “(B) expenditures taken into account
23 under section 47 or 48(a) shall not be taken
24 into account under this section.

25 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
2 ble contractor’ means—

3 “(A) the person who constructed the quali-
4 fied new energy efficient home, or

5 “(B) in the case of a qualified new energy
6 efficient home which is a manufactured home,
7 the manufactured home producer of such home.
8 If more than 1 person is described in subparagraph
9 (A) or (B) with respect to any qualified new energy
10 efficient home, such term means the person des-
11 ignated as such by the owner of such home.

12 “(2) ENERGY EFFICIENT PROPERTY.—The
13 term ‘energy efficient property’ means any energy
14 efficient building envelope component, and any en-
15 ergy efficient heating or cooling equipment or sys-
16 tem, which can, individually or in combination with
17 other components, result in a dwelling unit meeting
18 the requirements of this section.

19 “(3) QUALIFIED NEW ENERGY EFFICIENT
20 HOME.—The term ‘qualified new energy efficient
21 home’ means a dwelling unit—

22 “(A) located in the United States,

23 “(B) the construction of which is substan-
24 tially completed after December 31, 2005,

1 “(C) the original use of which, after such
2 construction, is reasonably expected to be as a
3 residence by the person who acquires such
4 dwelling unit from the eligible contractor,

5 “(D) which is—

6 “(i) certified to have a level of annual
7 heating and cooling energy consumption
8 which is at least 30 percent below the an-
9 nual level of heating and cooling energy
10 consumption of a comparable dwelling unit
11 constructed in accordance with the stand-
12 ards of chapter 4 of the 2000 International
13 Energy Conservation Code, as such Code
14 (including supplements) is in effect on the
15 date of the enactment of this section, and
16 to have building envelope component im-
17 provements account for at least $\frac{1}{3}$ of such
18 30 percent,

19 “(ii) certified to have a level of annual
20 heating and cooling energy consumption
21 which is at least 50 percent below such an-
22 nual level and to have building envelope
23 component improvements account for at
24 least $\frac{1}{5}$ of such 50 percent, or

25 “(iii) a manufactured home which—

1 “(I) conforms to Federal Manu-
2 factured Home Construction and
3 Safety Standards (section 3280 of
4 title 24, Code of Federal Regulations),
5 and

6 “(II) meets the applicable stand-
7 ards required by the Administrator of
8 the Environmental Protection Agency
9 under the Energy Star Labeled
10 Homes program.

11 “(4) CONSTRUCTION.—The term ‘construction’
12 includes substantial reconstruction and rehabilita-
13 tion.

14 “(5) ACQUIRE.—The term ‘acquire’ includes
15 purchase and, in the case of reconstruction and re-
16 habilitation, such term includes a binding written
17 contract for such reconstruction or rehabilitation.

18 “(6) BUILDING ENVELOPE COMPONENT.—The
19 term ‘building envelope component’ means—

20 “(A) any insulation material or system
21 which is specifically and primarily designed to
22 reduce the heat loss or gain of a dwelling unit
23 when installed in or on such dwelling unit,

24 “(B) exterior windows (including sky-
25 lights),

1 “(C) exterior doors, and

2 “(D) any metal roof installed on a dwelling
3 unit, but only if such roof has appropriate pig-
4 mented coatings which—

5 “(i) are specifically and primarily de-
6 signed to reduce the heat gain of such
7 dwelling unit, and

8 “(ii) meet the Energy Star program
9 requirements.

10 “(d) CERTIFICATION.—

11 “(1) METHOD OF CERTIFICATION.—A certifi-
12 cation described in subsection (c)(3)(D) shall be de-
13 termined in accordance with guidance prescribed by
14 the Secretary. Such guidance shall specify proce-
15 dures and methods for calculating energy and cost
16 savings.

17 “(2) FORM.—A certification described in sub-
18 section (c)(3)(D) shall be made in writing—

19 “(A) in a manner which specifies in readily
20 verifiable fashion the energy efficient building
21 envelope components and energy efficient heat-
22 ing or cooling equipment installed and their re-
23 spective rated energy efficiency performance,
24 and

1 “(B) in the case of a qualified new energy
2 efficient home which is a manufactured home,
3 accompanied by such documentation as required
4 by the Administrator of the Environmental Pro-
5 tection Agency under the Energy Star Labeled
6 Homes program.

7 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
8 title, if a credit is determined under this section for any
9 expenditure with respect to any property, the increase in
10 the basis of such property which would (but for this sub-
11 section) result from such expenditure shall be reduced by
12 the amount of the credit so determined.

13 “(f) APPLICATION OF SECTION.—Subsection (a) shall
14 apply to qualified new energy efficient homes acquired
15 during the period beginning on January 1, 2006, and end-
16 ing on December 31, 2008.”.

17 (2) CREDIT MADE PART OF GENERAL BUSI-
18 NESS CREDIT.—Section 38(b) of the Internal Rev-
19 enue Code of 1986 (relating to current year business
20 credit) is amended—

21 (A) in paragraph (18), by striking “plus”
22 at the end;

23 (B) in paragraph (19), by striking the pe-
24 riod at the end and inserting “, plus”; and

25 (C) by adding at the end the following:

1 “(20) the new energy efficient home credit de-
2 termined under section 45J(a).”.

3 (3) BASIS ADJUSTMENT.—Section 1016(a) of
4 the Internal Revenue Code of 1986 (as amended by
5 this Act) is amended—

6 (A) in paragraph (32), by striking “and”
7 at the end;

8 (B) in paragraph (33), by striking the pe-
9 riod at the end and inserting “, and”; and

10 (C) by adding at the end the following:

11 “(34) to the extent provided in section 45J(e),
12 in the case of amounts with respect to which a credit
13 has been allowed under section 45J.”.

14 (4) DEDUCTION FOR CERTAIN UNUSED BUSI-
15 NESS CREDITS.—Section 196(c) of the Internal Rev-
16 enue Code of 1986 (defining qualified business cred-
17 its) is amended—

18 (A) in paragraph (11), by striking “and”
19 at the end;

20 (B) in paragraph (12), by striking the pe-
21 riod at the end and inserting “, and”; and

22 (C) by adding after paragraph (12) the fol-
23 lowing:

24 “(13) the new energy efficient home credit de-
25 termined under section 45J(a).”.

1 (5) CLERICAL AMENDMENT.—The table of sec-
2 tions for subpart D of part IV of subchapter A of
3 chapter 1 of the Internal Revenue Code of 1986 is
4 amended by adding at the end the following:

 “Sec. 45J. New energy efficient home credit.”.

5 (6) EFFECTIVE DATE.—The amendments made
6 by this section shall apply to taxable years ending
7 after December 31, 2005.

8 (f) CREDIT FOR ENERGY EFFICIENT APPLIANCES.—

9 (1) IN GENERAL.—Subpart D of part IV of
10 subchapter A of chapter 1 of the Internal Revenue
11 Code of 1986 (relating to business-related credits)
12 (as amended by this Act) is amended by adding at
13 the end the following:

14 **“SEC. 45K. ENERGY EFFICIENT APPLIANCE CREDIT.**

15 “ (a) ALLOWANCE OF CREDIT.—For purposes of sec-
16 tion 38, the energy efficient appliance credit determined
17 under this section for the taxable year is an amount equal
18 to the sum of—

19 “(1) the tier I appliance amount, and

20 “(2) the tier II appliance amount,

21 with respect to qualified energy efficient appliances pro-
22 duced by the taxpayer during the calendar year ending
23 with or within the taxable year.

24 “(b) APPLIANCE AMOUNTS.—For purposes of sub-
25 section (a)—

1 “(1) TIER I APPLIANCE AMOUNT.—The tier I
2 appliance amount is equal to—

3 “(A) \$100, multiplied by

4 “(B) an amount (rounded to the nearest
5 whole number) equal to the applicable percent-
6 age of the eligible production.

7 “(2) TIER II APPLIANCE AMOUNT.—The tier II
8 appliance amount is equal to \$150, multiplied by an
9 amount equal to the eligible production reduced by
10 the amount determined under paragraph (1)(B).

11 “(3) APPLICABLE PERCENTAGE.—The applica-
12 ble percentage is the percentage determined by di-
13 viding the tier I appliances produced by the taxpayer
14 during the calendar year by the sum of the tier I
15 and tier II appliances so produced.

16 “(4) ELIGIBLE PRODUCTION.—The eligible pro-
17 duction of qualified energy efficient appliances by
18 the taxpayer for any calendar year is the excess of—

19 “(A) the number of such appliances which
20 are produced by the taxpayer during such cal-
21 endar year, over

22 “(B) 110 percent of the average annual
23 number of such appliances which were produced
24 by the taxpayer (or any predecessor) during the
25 preceding 3-calendar year period.

1 “(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—

2 For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified energy
4 efficient appliance’ means any tier I appliance or tier
5 II appliance which is produced in the United States.

6 “(2) TIER I APPLIANCE.—The term ‘tier I ap-
7 pliance’ means—

8 “(A) a clothes washer which is produced
9 with at least a 1.50 MEF, and

10 “(B) a refrigerator which consumes at
11 least 15 percent (20 percent in the case of a re-
12 frigerator produced after 2006) less kilowatt
13 hours per year than the energy conservation
14 standards for refrigerators promulgated by the
15 Department of Energy and effective on July 1,
16 2001.

17 “(3) TIER II APPLIANCE.—The term ‘tier II ap-
18 pliance’ means a refrigerator produced before 2007
19 which consumes at least 20 percent less kilowatt
20 hours per year than the energy conservation stand-
21 ards described in paragraph (2)(B).

22 “(4) CLOTHES WASHER.—The term ‘clothes
23 washer’ means a residential clothes washer, includ-
24 ing a residential style coin operated washer.

1 “(5) REFRIGERATOR.—The term ‘refrigerator’
2 means an automatic defrost refrigerator-freezer
3 which has an internal volume of at least 16.5 cubic
4 feet.

5 “(6) MEF.—The term ‘MEF’ means Modified
6 Energy Factor (as determined by the Secretary of
7 Energy).

8 “(7) PRODUCED.—The term ‘produced’ in-
9 cludes manufactured.

10 “(d) LIMITATION ON MAXIMUM CREDIT.—

11 “(1) IN GENERAL.—The amount of credit al-
12 lowed under subsection (a) with respect to a tax-
13 payer for any taxable year shall not exceed
14 \$60,000,000, reduced by the amount of the credit
15 allowed under subsection (a) to the taxpayer (or any
16 predecessor) for any prior taxable year.

17 “(2) LIMITATION BASED ON GROSS RE-
18 CEIPTS.—The credit allowed under subsection (a)
19 with respect to a taxpayer for the taxable year shall
20 not exceed an amount equal to 2 percent of the aver-
21 age annual gross receipts of the taxpayer for the 3
22 taxable years preceding the taxable year for which
23 the credit is determined.

1 “(3) GROSS RECEIPTS.—For purposes of this
2 subsection, the rules of paragraphs (2) and (3) of
3 section 448(c) shall apply.

4 “(e) SPECIAL RULES.—For purposes of this
5 section—

6 “(1) IN GENERAL.—Rules similar to the rules
7 of subsections (c), (d), and (e) of section 52 shall
8 apply.

9 “(2) CONTROLLED GROUPS.—

10 “(A) IN GENERAL.—All persons treated as
11 a single employer under subsection (a) or (b) of
12 section 52 or subsection (m) or (o) of section
13 414 shall be treated as a single manufacturer.

14 “(B) INCLUSION OF FOREIGN CORPORA-
15 TIONS.—For purposes of subparagraph (A), in
16 applying subsections (a) and (b) of section 52
17 to this section, section 1563 shall be applied
18 without regard to subsection (b)(2)(C) thereof.

19 “(f) VERIFICATION.—The taxpayer shall submit such
20 information or certification as the Secretary, after con-
21 sultation with the Secretary of Energy, determines nec-
22 essary to claim the credit amount under subsection (a).

23 “(g) TERMINATION.—This section shall not apply
24 with respect to appliances produced after December 31,
25 2007.”.

1 (2) CREDIT MADE PART OF GENERAL BUSI-
2 NESS CREDIT.—Section 38(b) of the Internal Rev-
3 enue Code of 1986 (relating to current year business
4 credit) (as amended by this Act) is amended—

5 (A) in paragraph (19), by striking “plus”
6 at the end;

7 (B) in paragraph (20), by striking the pe-
8 riod at the end and inserting “, plus”; and

9 (C) by adding at the end the following:

10 “(21) the energy efficient appliance credit de-
11 termined under section 45K(a).”.

12 (3) CLERICAL AMENDMENT.—The table of sec-
13 tions for subpart D of part IV of subchapter A of
14 chapter 1 of the Internal Revenue Code of 1986 (as
15 amended by this Act) is amended by adding at the
16 end the following:

 “Sec. 45K. Energy efficient appliance credit.”.

17 (4) EFFECTIVE DATE.—The amendments made
18 by this section shall apply to appliances produced
19 after December 31, 2005, in taxable years ending
20 after such date.

21 (g) ENERGY EFFICIENT COMMERCIAL BUILDINGS
22 DEDUCTION.—

23 (1) IN GENERAL.—Part VI of subchapter B of
24 chapter 1 of the Internal Revenue Code of 1986 (re-
25 lating to itemized deductions for individuals and cor-

1 porations) is amended by inserting after section
2 179B the following:

3 **“SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS**
4 **DEDUCTION.**

5 “(a) IN GENERAL.—There shall be allowed as a de-
6 duction an amount equal to the cost of energy efficient
7 commercial building property placed in service during the
8 taxable year.

9 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The de-
10 duction under subsection (a) with respect to any building
11 for the taxable year and all prior taxable years shall not
12 exceed an amount equal to the product of—

13 “(1) \$1.50, and

14 “(2) the square footage of the building.

15 “(c) DEFINITIONS.—For purposes of this section—

16 “(1) ENERGY EFFICIENT COMMERCIAL BUILD-
17 ING PROPERTY.—The term ‘energy efficient commer-
18 cial building property’ means property—

19 “(A) which is installed on or in a
20 building—

21 “(i) which is located in the United
22 States, and

23 “(ii) which is the type of structure to
24 which the Standard 90.1–2001 is applica-
25 ble,

1 “(B) which is installed as part of—

2 “(i) the lighting systems,

3 “(ii) the heating, cooling, ventilation,

4 and hot water systems, or

5 “(iii) the building envelope, and

6 “(C) which is certified in accordance with

7 subsection (d)(4) as being installed as part of

8 a plan designed to reduce the total annual en-

9 ergy and power costs with respect to the light-

10 ing systems, heating, cooling, ventilation, and

11 hot water systems of the building by 50 percent

12 or more in comparison to a reference building

13 which meets the minimum requirements of

14 Standard 90.1–2001 using methods of calcula-

15 tion under subsection (d)(2).

16 “(2) STANDARD 90.1–2001.—The term ‘Stand-

17 ard 90.1–2001’ means Standard 90.1–2001 of the

18 American Society of Heating, Refrigerating, and Air

19 Conditioning Engineers and the Illuminating Engi-

20 neering Society of North America (as in effect on

21 April 2, 2003).

22 “(d) SPECIAL RULES.—

23 “(1) PARTIAL ALLOWANCE.—

24 “(A) IN GENERAL.—Except as provided in

25 subsection (f), in the case of a building placed

1 in service on or before the date of the enact-
2 ment of this section, if—

3 “(i) the requirement of subsection
4 (c)(1)(C) is not met, but

5 “(ii) there is a certification in accord-
6 ance with subsection (d)(4) that any sys-
7 tem referred to in subsection (c)(1)(B) sat-
8 isfies the energy-savings targets estab-
9 lished by the Secretary under subpara-
10 graph (B) with respect to such system,

11 then the requirement of subsection (c)(1)(C)
12 shall be treated as met with respect to such sys-
13 tem, and the deduction under subsection (a)
14 shall be allowed with respect to energy efficient
15 commercial building property installed as part
16 of such system and as part of a plan to meet
17 such targets, except that subsection (b) shall be
18 applied to such property by substituting ‘\$.50’
19 for ‘\$1.50’.

20 “(B) REGULATIONS.—The Secretary, after
21 consultation with the Secretary of Energy, shall
22 establish a target for each system described in
23 subsection (c)(1)(B) which, if such targets were
24 met for all such systems, the building would
25 meet the requirements of subsection (c)(1)(C).

1 “(2) METHODS OF CALCULATION.—The Sec-
2 retary, after consultation with the Secretary of En-
3 ergy, shall promulgate regulations which describe in
4 detail methods for calculating and verifying energy
5 and power cost for purposes of this section.

6 “(3) NOTICE TO OWNER.—Each certification
7 required under this section shall include an expla-
8 nation to the building owner regarding the energy
9 efficiency features of the building and its projected
10 annual energy costs.

11 “(4) CERTIFICATION.—

12 “(A) IN GENERAL.—The Secretary shall
13 prescribe the manner and method for the mak-
14 ing of certifications under this section.

15 “(B) PROCEDURES.—The Secretary shall
16 include as part of the certification process pro-
17 cedures for inspection and testing by qualified
18 individuals described in subparagraph (C) to
19 ensure compliance of buildings with energy-sav-
20 ings plans and targets. Such procedures shall
21 be—

22 “(i) comparable, given the difference
23 between commercial and residential build-
24 ings, to the requirements in the Mortgage
25 Industry National Accreditation Proce-

1 dures for Home Energy Rating Systems,
2 and

3 “(ii) fuel neutral such that the same
4 energy efficiency measures allow a building
5 to be eligible for the deduction under this
6 section regardless of whether such building
7 uses a gas or oil furnace or boiler, an elec-
8 tric heat pump, or other fuel source.

9 “(C) QUALIFIED INDIVIDUALS.—Individ-
10 uals qualified to determine compliance shall be
11 only those individuals who are recognized by an
12 organization certified by the Secretary for such
13 purposes.

14 “(e) BASIS REDUCTION.—For purposes of this sub-
15 title, if a deduction is allowed under this section with re-
16 spect to any energy efficient commercial building property,
17 the basis of such property shall be reduced by the amount
18 of the deduction so allowed.

19 “(f) INTERIM RULES FOR LIGHTING SYSTEMS.—
20 Until such time as the Secretary issues final regulations
21 under subsection (d)(1)(B) with respect to property which
22 is part of a lighting system—

23 “(1) IN GENERAL.—The lighting system target
24 under subsection (d)(1)(A)(ii) shall be a reduction in
25 lighting power density of 25 percent (50 percent in

1 the case of a warehouse) of the minimum require-
2 ments in Table 9.3.1.1 or Table 9.3.1.2 (not includ-
3 ing additional interior lighting power allowances) of
4 Standard 90.1–2001.

5 “(2) REDUCTION IN DEDUCTION IF REDUCTION
6 LESS THAN 40 PERCENT.—

7 “(A) IN GENERAL.—If, with respect to the
8 lighting system of any building other than a
9 warehouse, the reduction in lighting power den-
10 sity of the lighting system is not at least 40
11 percent, only the applicable percentage of the
12 amount of deduction otherwise allowable under
13 this section with respect to such property shall
14 be allowed.

15 “(B) APPLICABLE PERCENTAGE.—For
16 purposes of subparagraph (A), the applicable
17 percentage is the number of percentage points
18 (not greater than 100) equal to the sum of—

19 “(i) 50, and

20 “(ii) the amount which bears the same
21 ratio to 50 as the excess of the reduction
22 of lighting power density of the lighting
23 system over 25 percentage points bears to
24 15.

1 “(C) EXCEPTIONS.—This subsection shall
2 not apply to any system—

3 “(i) the controls and circuiting of
4 which do not comply fully with the manda-
5 tory and prescriptive requirements of
6 Standard 90.1–2001 and which do not in-
7 clude provision for bilevel switching in all
8 occupancies except hotel and motel guest
9 rooms, store rooms, restrooms, and public
10 lobbies, or

11 “(ii) which does not meet the min-
12 imum requirements for calculated lighting
13 levels as set forth in the Illuminating Engi-
14 neering Society of North America Lighting
15 Handbook, Performance and Application,
16 Ninth Edition, 2000.

17 “(g) REGULATIONS.—The Secretary shall promul-
18 gate such regulations as necessary—

19 “(1) to take into account new technologies re-
20 garding energy efficiency and renewable energy for
21 purposes of determining energy efficiency and sav-
22 ings under this section, and

23 “(2) to provide for a recapture of the deduction
24 allowed under this section if the plan described in

1 subsection (c)(1)(C) or (d)(1)(A) is not fully imple-
2 mented.

3 “(h) TERMINATION.—This section shall not apply
4 with respect to property placed in service after December
5 31, 2007.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 1016(a) of the Internal Rev-
8 enue Code of 1986 (as amended by this Act) is
9 amended—

10 (i) in paragraph (33), by striking
11 “and” at the end;

12 (ii) in paragraph (34), by striking the
13 period at the end and inserting “, and”;
14 and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(35) to the extent provided in section
18 179B(e).”.

19 (B) Paragraphs (2)(C) and (3)(C) of sec-
20 tion 1245(a) of such Code are amended by in-
21 serting “179C,” after “179B,” each place it ap-
22 pears.

23 (C) Section 1250(b)(3) of such Code is
24 amended by inserting before the period at the
25 end of the first sentence “or by section 179C”.

1 (D) Section 263(a)(1) of such Code is
2 amended—

3 (i) in subparagraph (H), by striking
4 “or” at the end;

5 (ii) in subparagraph (I), by striking
6 the period at the end and inserting “, or”;
7 and

8 (iii) by inserting after subparagraph
9 (I) the following:

10 “(J) expenditures for which a deduction is
11 allowed under section 179C.”.

12 (E) Section 312(k)(3)(B) of such Code (in-
13 cluding the heading of that section) is amended
14 by striking “179A, or 179B” each place it ap-
15 pears and inserting “, 179A, 179B, or 179C”.

16 (3) CLERICAL AMENDMENT.—The table of sec-
17 tions for part VI of subchapter B of chapter 1 of the
18 Internal Revenue Code of 1986 is amended by in-
19 serting after section 179B the following:

“Sec. 179C. Energy efficient commercial buildings deduction.”.

20 (4) EFFECTIVE DATE.—The amendments made
21 by this section shall apply to property placed in serv-
22 ice after the date of the enactment of this Act in
23 taxable years ending after such date.

1 (h) THREE-YEAR APPLICABLE RECOVERY PERIOD
2 FOR DEPRECIATION OF QUALIFIED ENERGY MANAGE-
3 MENT DEVICES.—

4 (1) IN GENERAL.—Section 168 of the Internal
5 Revenue Code of 1986 (relating to accelerated cost
6 recovery system) is amended—

7 (A) in subsection (e)(3)(A)—

8 (i) in clause (ii), by striking “and” at
9 the end;

10 (ii) in clause (iii), by striking the pe-
11 riod at the end and inserting “, and”; and

12 (iii) by adding at the end the fol-
13 lowing:

14 “(iv) any qualified energy manage-
15 ment device.”;

16 (B) in subsection (i), by inserting at the
17 end the following:

18 “(17) QUALIFIED ENERGY MANAGEMENT DE-
19 VICE.—

20 “(A) IN GENERAL.—The term ‘qualified
21 energy management device’ means any energy
22 management device which is placed in service
23 before January 1, 2008, by a taxpayer who is
24 a supplier of electric energy or a provider of
25 electric energy services.

1 “(B) ENERGY MANAGEMENT DEVICE.—
2 For purposes of subparagraph (A), the term
3 ‘energy management device’ means any meter
4 or metering device which is used by the
5 taxpayer—

6 “(i) to measure and record electricity
7 usage data on a time-differentiated basis
8 in at least 4 separate time segments per
9 day, and

10 “(ii) to provide such data on at least
11 a monthly basis to both consumers and the
12 taxpayer.”; and

13 (C) in the table under subsection
14 (g)(3)(B), by inserting after the item relating to
15 subparagraph (A)(iii) the following:

“(A)(iv) 20”.

16 (2) EFFECTIVE DATE.—The amendments made
17 by this section shall apply to property placed in serv-
18 ice after the date of the enactment of this Act, in
19 taxable years ending after such date.

20 **SEC. 5. CREDIT FOR INVESTMENT IN QUALIFYING GASIFI-**
21 **CATION COMBINED CYCLE TECHNOLOGIES.**

22 (a) ALLOWANCE OF QUALIFYING GASIFICATION
23 COMBINED CYCLE TECHNOLOGY FACILITY CREDIT.—
24 Section 46 (relating to the amount of credit) is amended
25 by striking “and” at the end of paragraph (1), by striking

1 the period at the end of paragraph (2) and inserting “,
2 and”, and by adding at the end the following new para-
3 graph:

4 “(3) the qualifying gasification combined cycle
5 technology facility credit.”.

6 (b) AMOUNT OF QUALIFYING GASIFICATION COM-
7 BINED CYCLE TECHNOLOGY FACILITY CREDIT.—Subpart
8 E of part IV of subchapter A of chapter 1 (relating to
9 rules for computing investment credit) is amended by in-
10 serting after section 48 the following new section:

11 **“SEC. 48A. QUALIFYING GASIFICATION COMBINED CYCLE**
12 **TECHNOLOGY FACILITY CREDIT .**

13 “(a) IN GENERAL.—For purposes of section 46, the
14 qualifying gasification combined cycle technology facility
15 credit for any taxable year is an amount equal to 15 per-
16 cent of the qualified investment in a qualifying gasification
17 combined cycle technology facility for such taxable year,
18 except that the credit shall be 20 percent if the facility
19 is a poly-generation facility.

20 “(b) QUALIFYING GASIFICATION COMBINED CYCLE
21 TECHNOLOGY FACILITY.—For purposes of subsection (a),
22 the term ‘qualifying gasification combined cycle technology
23 facility’ means an integrated gasification combined cycle
24 technology facility of the taxpayer—

1 “(1) in the case of a facility first placed in serv-
2 ice after September 30, 2005 and before September
3 30, 2013, the original use of which commences with
4 the taxpayer, or

5 “(2) in the case of the retrofitting or
6 repowering of a facility first placed in service before
7 October 1, 2005, the retrofitting or repowering of
8 which is completed by the taxpayer after September
9 30, 2005 and before September 30, 2013.

10 “(c) QUALIFIED INVESTMENT.—For purposes of sub-
11 section (a), the term ‘qualified investment’ means, with
12 respect to any taxable year, the basis of a qualifying gasifi-
13 cation combined cycle technology facility, including all
14 equipment and other tangible personal property incor-
15 porated into and used in a gasification combined cycle
16 technology facility or poly-generating facility, as appro-
17 priate, all transmission equipment employed specifically to
18 serve and located at the site of a gasification combined
19 cycle technology facility or poly-generating facility, as ap-
20 propriate, and all components added to capture, separate
21 on a long term basis, isolate, or remove greenhouse gases
22 that result from the generation of electricity from a gasifi-
23 cation combined cycle technology facility or poly-gener-
24 ating facility, placed in service by the taxpayer during
25 such taxable year (in the case of a facility described in

1 subsection (b)(2), only that portion of the basis of such
2 facility which is properly attributable to the retrofitting
3 or repowering of such facility.)

4 “(d) QUALIFIED PROGRESS EXPENDITURES.—

5 “(1) INCREASE IN QUALIFIED INVESTMENT.—

6 In the case of a taxpayer who has made an election
7 under paragraph (5), the amount of the qualified in-
8 vestment of such taxpayer for the taxable year (de-
9 termined under subsection (g) without regard to this
10 subsection) shall be increased by an amount equal to
11 the aggregate of each qualified progress expenditure
12 for the taxable year with respect to progress expend-
13 iture property.

14 “(2) PROGRESS EXPENDITURE PROPERTY DE-
15 FINED.—For purposes of this subsection, the term
16 ‘progress expenditure property’ means any property
17 being constructed by or for the taxpayer and which
18 it is reasonable to believe will qualify as a qualifying
19 gasification combined cycle technology facility which
20 is being constructed by or for the taxpayer when it
21 is placed in service.

22 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
23 FINED.—For purposes of this subsection—

24 “(A) SELF-CONSTRUCTED PROPERTY.—In
25 the case of any self-constructed property, the

1 term ‘qualified progress expenditures’ means
2 the amount which, for purposes of this subpart,
3 is properly chargeable (during such taxable
4 year) to capital account with respect to such
5 property.

6 “(B) NONSELF-CONSTRUCTED PROP-
7 ERTY.—In the case of nonself-constructed prop-
8 erty, the term ‘qualified progress expenditures’
9 means the amount paid during the taxable year
10 to another person for the construction of such
11 property.

12 “(4) OTHER DEFINITIONS.—For purposes of
13 this subsection—

14 “(A) SELF-CONSTRUCTED PROPERTY.—
15 The term ‘self-constructed property’ means
16 property for which it is reasonable to believe
17 that more than half of the construction expendi-
18 tures will be made directly by the taxpayer.

19 “(B) NONSELF-CONSTRUCTED PROP-
20 ERTY.—The term ‘nonself-constructed property’
21 means property which is not self-constructed
22 property.

23 “(C) CONSTRUCTION, ETC.—The term
24 ‘construction’ includes reconstruction and erec-

1 tion, and the term ‘constructed’ includes recon-
2 structed and erected.

3 “(D) ONLY CONSTRUCTION OF GASIFI-
4 CATION COMBINED CYCLE TECHNOLOGY FACIL-
5 ITY TO BE TAKEN INTO ACCOUNT.—Construc-
6 tion shall be taken into account only if, for pur-
7 poses of this subpart, expenditures therefore
8 are properly chargeable to capital account with
9 respect to the property.

10 “(5) ELECTION.—An election under this sub-
11 section may be made at such time and in such man-
12 ner as the Secretary may by regulations prescribe.
13 Such an election shall apply to the taxable year for
14 which made and to all subsequent taxable years.
15 Such an election, once made, may not be revoked ex-
16 cept with the consent of the Secretary.

17 “(e) COORDINATION WITH OTHER CREDITS.—This
18 section shall not apply to any property with respect to
19 which the rehabilitation credit under section 47 or the en-
20 ergy credit under section 48 is allowed unless the taxpayer
21 elects to waive the application of such credit to such prop-
22 erty.

23 “(f) CARRYFORWARD OF UNUSED CREDIT.—A tax-
24 payer may elect to use all or a portion of the credit cal-

1 culated under subsection (a) in one or more succeeding
2 taxable years.

3 “(g) DEFINITIONS.—

4 “(1) For purposes of this section, the term
5 ‘gasification combined cycle technology facility’
6 means any combination of equipment, including all
7 related power generation equipment, (A) used at a
8 single location to convert coal or residuals into syn-
9 thesis gas that is then used as a fuel to generate
10 electricity; (B) that is carbon capture ready; (C) to
11 which depreciation (or amortization in lieu of depre-
12 ciation) is allowable; and (D) that can meet a nitro-
13 gen oxides emissions rate of 0.06 lb/mmBtu and a
14 sulfur dioxide emissions rate of 0.08 lb/mmBtu.

15 “(2) For purposes of this section, the term
16 ‘poly-generating facility’ means a gasification com-
17 bined cycle technology facility that also produces
18 commercially useful fuel and/or chemical products
19 and where no more than 50 percent or less than 20
20 percent of the energy content (BTUs/hr) of the gas-
21 ification process is used to produce such other fuels
22 or chemicals.

23 “(3) For purposes of this section, the term ‘car-
24 bon capture ready’ means a gasification combined
25 cycle technology facility that can have components

1 added that can capture, separate on a long term
2 basis, isolate, or remove greenhouse gases that result
3 from the generation of electricity.”.

4 (c) RECAPTURE **【AND BASIS ADJUSTMENT】** .—

5 (1) Section 50(a) of the Internal Revenue Code
6 of 1986 (relating to other special rules) is amended
7 by adding at the end the following new paragraph:

8 “(6) SPECIAL RULES RELATING TO QUALIFYING
9 GASIFICATION COMBINED CYCLE TECHNOLOGY FA-
10 CILITY.—For purposes of applying this subsection in
11 the case of any credit allowable by reason of section
12 48A, the following shall apply:

13 “(A) GENERAL RULE.—In lieu of the
14 amount of the increase in tax under paragraph
15 (1), the increase in tax shall be an amount
16 equal to the investment tax credit allowed under
17 section 38 for all prior taxable years with re-
18 spect to a qualifying gasification combined cycle
19 technology facility (as defined by section
20 48A(g)(1)) multiplied by a fraction whose nu-
21 merator is the number of years remaining to
22 fully depreciate under this title the qualifying
23 gasification combined cycle technology facility
24 disposed of, and whose denominator is the total
25 number of years over which such facility would

1 otherwise have been subject to depreciation. For
2 purposes of the preceding sentence, the year of
3 disposition of the qualifying gasification com-
4 bined cycle technology facility shall be treated
5 as a year of remaining depreciation.

6 “(B) PROPERTY CEASES TO QUALIFY FOR
7 PROGRESS EXPENDITURES.—Rules similar to
8 the rules of paragraph (2) shall apply in the
9 case of qualified progress expenditures for a
10 qualifying gasification combined cycle tech-
11 nology facility under section 48A, except that
12 the amount of the increase in tax under sub-
13 paragraph (A) of this paragraph shall be sub-
14 stituted for the amount described in such para-
15 graph (2).

16 “(C) APPLICATION OF PARAGRAPH.—This
17 paragraph shall be applied separately with re-
18 spect to the credit allowed under section 38 re-
19 garding a qualifying gasification combined cycle
20 technology facility.”.

21 **[(2) BASIS ADJUSTMENT.—Section 50(c)(3) of**
22 **the Internal Revenue Code of 1986 is amended by**
23 **adding “or any gasification combined cycle tech-**
24 **nology credit” after “any energy credit”.]**

1 **SEC. 6. TREATMENT OF PERSONS NOT ABLE TO USE EN-**
2 **TIRE CREDIT.**

3 (a) IN GENERAL.—Section 48A of the Internal Rev-
4 enue Code of 1986, as added by this Act, is amended by
5 adding at the end the following new subsection:

6 “(h) TREATMENT OF PERSONS NOT ABLE TO USE
7 ENTIRE CREDIT.—

8 “(1) ALLOWANCE OF CREDITS.—

9 “(A) IN GENERAL.—Any credit allowable
10 under this section with respect to a facility
11 owned by a person described in subparagraph
12 (B) may be transferred or used as provided in
13 this subsection, and the determination as to
14 whether the credit is allowable shall be made
15 without regard to the tax-exempt status of the
16 person.

17 “(B) PERSONS DESCRIBED.—A person is
18 described in this subparagraph if the person
19 is—

20 “(i) an organization described in sec-
21 tion 501(c)(12)(C) and exempt from tax
22 under section 501(a),

23 “(ii) an organization described in sec-
24 tion 1381(a)(2)(C),

25 “(iii) a public utility (as defined in
26 section 136(c)(2)(B)),

1 “(iv) any State or political subdivision
2 thereof, the District of Columbia, or any
3 agency or instrumentality of any of the
4 foregoing,

5 “(v) any Indian tribal government
6 (within the meaning of section 7871) or
7 any agency or instrumentality thereof, or

8 “(vi) the Tennessee Valley Authority.

9 “(2) TRANSFER OF CREDIT.—

10 “(A) IN GENERAL.—A person described in
11 clause (i), (ii), (iii), (iv), or (v) of paragraph
12 (1)(B) may transfer any credit to which para-
13 graph (1)(A) applies through an assignment to
14 any other person not described in paragraph
15 (1)(B). Such transfer may be revoked only with
16 the consent of the Secretary.

17 “(B) REGULATIONS.—The Secretary shall
18 prescribe such regulations as necessary to in-
19 sure that any credit described in subparagraph
20 (A) is claimed once and not reassigned by such
21 other person.

22 “(C) TRANSFER PROCEEDS TREATED AS
23 ARISING FROM ESSENTIAL GOVERNMENT FUNC-
24 TION.—Any proceeds derived by a person de-
25 scribed in clause (iii), (iv), or (v) of paragraph

1 (1)(B) from the transfer of any credit under
2 subparagraph (A) shall be treated as arising
3 from the exercise of an essential government
4 function.

5 “(3) USE OF CREDIT AS AN OFFSET.—Notwith-
6 standing any other provision of law, in the case of
7 a person described in clause (i), (ii), or (v) of para-
8 graph (1)(B), any credit to which paragraph (1)(A)
9 applies may be applied by such person, to the extent
10 provided by the Secretary of Agriculture, as a pre-
11 payment of any loan, debt, or other obligation the
12 entity has incurred under subchapter I of chapter 31
13 of title 7 of the Rural Electrification Act of 1936 (7
14 U.S.C. 901 et seq.), as in effect on the date of the
15 enactment of this section.

16 “(4) USE BY TVA.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of law, in the case of a person
19 described in paragraph (1)(B)(vi), any credit to
20 which paragraph (1)(A) applies may be applied
21 as a credit against the payments required to be
22 made in any fiscal year under section 15d(e) of
23 the Tennessee Valley Authority Act of 1933 (16
24 U.S.C. 831n–4(e)) as an annual return on the

1 appropriations investment and an annual repay-
2 ment sum.

3 “(B) TREATMENT OF CREDITS.—The ag-
4 gregate amount of credits described in para-
5 graph (1)(A) with respect to such person shall
6 be treated in the same manner and to the same
7 extent as if such credits were a payment in cash
8 and shall be applied first against the annual re-
9 turn on the appropriations investment.

10 “(C) CREDIT CARRYOVER.—With respect
11 to any fiscal year, if the aggregate amount of
12 credits described in paragraph (1)(A) with re-
13 spect to such person exceeds the aggregate
14 amount of payment obligations described in
15 subparagraph (A), the excess amount shall re-
16 main available for application as credits against
17 the amounts of such payment obligations in
18 succeeding fiscal years in the same manner as
19 described in this paragraph.

20 “(5) CREDIT NOT INCOME.—Any transfer
21 under paragraph (2) or use under paragraph (3) of
22 any credit to which paragraph (1)(A) applies shall
23 not be treated as income for purposes of section
24 501(c)(12).

1 “(6) TREATMENT OF UNRELATED PERSONS.—

2 For purposes of this subsection, sales among and be-
3 tween persons described in clauses (i), (ii), (iii), and
4 (v) of paragraph (1)(A) shall be treated as sales be-
5 tween unrelated parties.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to production after the date of the
8 enactment of this Act, in taxable years ending after such
9 date.

10 **SEC. 7. ELIGIBILITY FOR TAX CREDITS.**

11 (a) IN GENERAL.—The Secretary of the Treasury, in
12 consultation with the Secretary of Energy, may certify
13 that an eligible entity, as defined in section 113 of the
14 Natural Gas Price Reduction Act of 2005, qualifies for—

15 (1) an investment tax credit; or

16 (2) a production tax credit.

17 (b) REQUIREMENT.—A taxpayer shall not be entitled
18 to a tax credit described in subsection (a) without certifi-
19 cation by the Secretary of the Treasury.